

# **WARRANT ARTICLE 5 - EXHIBIT C**

## **AN ORDINANCE REGULATING THE CONTROL OF BARKING DOGS IN THE TOWN OF NORTH YARMOUTH**

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### **ACTION: TO REPEAL THE ORDINANCE**

#### **I. PURPOSE**

The purpose of this ordinance is to establish control of barking dogs in the Town of North Yarmouth by their owner or keeper at all times.

This Ordinance is enacted pursuant to the authority in Title 30A M.R.S.A., Sections 2101 and 3001 and the purpose of this Ordinance is to provide regulations in addition to those contained in Title 7 M.R.S.A. Part 9, Chapter 725, with respect to controlling barking dogs throughout the Town of North Yarmouth in the interest of the health, safety and general welfare of its residents.

#### **II. DEFINITIONS**

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. CONTROL:** The power or ability to direct the proper and safe activity of an animal.
- B. DOG:** Any of large and varied groups of domesticated animals in the canine family.
- C. KEEPER:** A person in possession or control of an animal.
- D. NUISANCE COMPANION ANIMAL:** A dog, which by loud, frequent and continual barking, howling, or other loud or unusual noises, unnecessarily annoys or disturbs any person at any time.
- E. OWNER:** Any person, firm, association or corporation owning, keeping or harboring an animal.
- F. RESPONSIBLE PARTY:** Any person who has possession or custody of a companion animal. If a companion animal is in violation of the restrictions of this Ordinance, the owner of the companion animal and the responsible party are jointly and severally liable for the violation.

#### **III. ANIMAL NOISE**

- A.** Except as provided in paragraphs (B) and (C) no owner, or responsible party, shall permit or allow any dog to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for twenty (20) minutes or more or recur intermittently for one (1) hour or more.
- B.** Section 3-A shall not apply if any dog has legitimate cause for provocation.
- C.** Section 3-A shall not apply to farm animals kept on a property located in the Town of North Yarmouth. For purposes of this exception, dogs are not "farm animals," and kennels are not "farms."

#### **IV. ENFORCEMENT**

- A. Written Notice** - Upon written complaint the Animal Control Officer (ACO) of the Town of North Yarmouth or any duly qualified State or Country law

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enforcement official shall investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint.

- B. Second Notice** - If the problem persists, the Officer shall issue a second warning to the owner or keeper. The Officer shall submit a written report to the Town Manager of findings and recommendations relating to the complaint. Upon receipt of such report and examination of the complainant the Town Manager may request an order concerning the restraint of such dog as may be deemed necessary. If the Town Manager fails to act within fourteen (14) days of receipt of said report the order is automatically vacated.
- C. Continued Disturbance** - Upon continuance of an annoyance or disturbance ordered ceased by the Town Manager, such owner shall be guilty of a civil violation and upon conviction thereof in District Court, shall be fined as identified in the Town of North Yarmouth's Fee Schedule. All fines so assessed shall be recovered for the use of the Town of North Yarmouth through District Court. Each day a violation continues to exist after notice shall constitute a separate offense.
- D. Removal of Order** - The owner or keeper of any dog that has been ordered to be restrained under this ordinance may file a request in writing with the Animal Control Officer or duly appointed Officer that the order be vacated, and after investigation by the Officer, said Officer may vacate such order if after investigation and review it is warranted. The Officer shall submit a written report of his/her investigation, recommendations, and action to Town Manager.

### **IV. SEVERABILITY**

The provisions of this ordinance are severable, and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provision of this ordinance.

ADOPTED: March 11, 1983

AMENDED: June 12, 2010

AMENDED: June 16, 2012

AMENDED: April 28, 2018